HIGH COURT OF UTTARANCHAL AT- NAINITAL.

Writ Petition No. 860 (S/S) 2004

Ramesh Chandra S/o Sri Durga Prasad
And two others. …..Petitioners.

Vs.

State of Uttaranchal through the Chief Secretary,
Govt. of Uttaranchal Dehradun,
And two others. …..Respondents.

Sri N.S. Pundir, Adv. and Ms. Pooja Banga, learned counsel for the petitioners,
Learned Standing counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri N.S. Pundir Adv. and Ms. Pooja Banga, learned counsel for the petitioners, and learned Standing Counsel for the respondents.

The petitioners, by means of this writ petition, have prayed for a writ, order or direction in the nature of mandamus directing the respondents to continue the petitioners without any artificial break in service till the post of Collection Amins/Peons are created and till they are regularised on the post of Collection Amins/Peons.

The facts of the case are that the petitioner no. 1 is working as Seasonal Collection Amin in Tehsil Lansdowne District Pauri Garhwal since 12.11.1999, the petitioner no. 2 is working as Seasonal Collection Peon in Tehsil Lansdowne District Pauri Garhwal since 1991 and the petitioner no. 3 is working as Seasonal Collection Peon in Tehsil Lansdowne, district Pauri Garhwal since 1999. The petitioners are continuously working since the date of their appointments except some artificial break. The petitioners have earlier filed writ petition no. 779 (S/S)2001. before this Court and this Court on 27.03.2001 has passed the following order:-

"Through this writ petition the petitioner seeks a writ of mandamus to command the opposite parties for appointment as regular Collection Amin/Collection Peon under 35% quota for amongst the Seasonal Collection Amins/Seasonal Collection Peons who have served for more than 4 faslis and whose recovery is 70% of the fixed target.
Learned counsel for the petitioner submits that the petitioners were seasonal collection Amin/Seasonal Collection Peons and in view of the circular issued by the Board of Revenue they collected 70% of the demand which was submitted to them, therefore, they were entitled tobe

considered in view of explanation appended to Rule-5 of U.P. Collection Amin Service Rule, 1974.

If this facts is correct, the opposite parties are directed to consider the case of the petitioners for appointment as regular collection Amin/Collection Peon under 35% quota to be filled up from amongst the Seasonal Collection Amins/ Seasonal Collection Peons, in case the vacancy exists.

Petition is disposed of accordingly."

Contention of the petitioners is that they are continuously working but they are being given artificial break after every six months. Counsel for the State has submitted that there is no post of regular Collection Amins or the Collection Peons with the establishment and, as such, the petitioners cannot be regularised in absence of any post.

In the circumstances it is provided that in case the work is available and the performance of the petitioners is up-to the mark and further the petitioners have worked continuously till the date of filing of the writ petition, the respondents shall not give artificial break and shall permit them to continue in service.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

July 29, 2004:
NCM: